

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No 1032 of 1986

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

Nos.1 to 5 - No.

HASMUKHBHAI DALSUKHBHAI RANA

Versus

DIPKALABEN RANCHHODLAL RANA & 1

Appearance:

MR JV DESAI for Petitioner

MR NITIN M AMIN for Respondent No. 1

PUBLIC PROSECUTOR for Respondent No. 2

CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 20/01/97

ORAL JUDGEMENT

This petition arises of an order made by the learned Sessions Judge, Ahmedabad on 18th April, 1986 directing the petitioner herein to pay a monthly maintenance of Rs.150/- to his wife, respondent No.1 under section 125 of the Code of Criminal Procedure.

The respondent No.1 filed Miscellaneous Application No.38 of 1984 before the learned Metropolitan

Magistrate, Ahmedabad, under section 125 of the Code claiming monthly maintenance of Rs.300/- for herself and Rs.100/- for her minor daughter from the petitioner. Learned Metropolitan Magistrate tried the said application and under his judgment and order dated 28th December, 1985 held that the respondent No.1 was leading an adulterous life and was not ready and willing to cohabit with the petitioner. Learned Magistrate, therefore, refused maintenance to the respondent No.1, however, allowed a monthly maintenance of Rs.75/- to the minor daughter. Feeling aggrieved, the respondent No.1 preferred Criminal Revision Application No.96/85 before the learned Sessions Judge, Ahmedabad. The learned Sessions Judge, Ahmedabad, after appreciating the evidence reversed the finding recorded by the learned trial Judge. The court rejected the petitioner's contention that respondent No.1 was leading an adulterous life. In Paragraph-11 of the judgment the court held that the respondent No.1 was beaten, ill-treated, and she had been driven away by the petitioner from the matrimonial home. The Court has in paragraph 14 of the judgment recorded that several attempts for reconciliation were made pending the revision petition before the learned Sessions Judge. However, at last the petitioner had refused to take the respondent No.1 with him.

In view of the findings recorded by the learned Sessions Judge, the directions allowing a monthly maintenance of Rs.150/- issued in favour of the respondent No.1 against the petitioner cannot be interfered with. Learned Advocate Mr.Desai has not made out any ground for interference with the judgment and order of the court below.

The petition is, therefore, dismissed. Rule is discharged. The petitioner is directed to pay the arrears of maintenance, if any, to the respondent No.1, within a period of six weeks from today.
